



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/151110

PRELIMINARY RECITALS

Pursuant to a petition filed July 31, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on September 05, 2013, at Kenosha, Wisconsin.

The issue for determination is whether the Kenosha County Human Service Department (the agency) correctly terminated Petitioner's Badger Care+ Benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Representative
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On October 24, 2012, the agency sent Petitioner a notice indicating that as of December 1, 2012, she would need to pay a monthly premium of \$101.00 to continue receiving benefits. (Exhibit 3)
3. Petitioner never paid the December premium. (Testimony of Petitioner; Exhibit 4)

4. Petitioner was placed in restrictive re-enrollment beginning January 1, 2013. (Exhibit 6)
5. In January 2013, Petitioner verified that her income decreased below the premium level. Consequently, her case re-opened. (Exhibit 5)
6. On May 14, 2013, Petitioner completed a renewal for BadgerCare+. (Exhibit 5)
7. On June 3, 2013, the agency sent Petitioner a notice indicating that as of July 1, 2013, her BadgerCare+ benefits would be ending because her income increased and because she did not pay the premium. (Exhibit 12)
8. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on July 31, 2013. (Exhibit 1)
9. Petitioner's spouse works 32 hours per week at \$11.50 per hour. (Exhibit 10) His average monthly income works out as follows:

$$32 \text{ hours per week} \times \$11.50 \text{ per hour} \times 4 \text{ weeks per month} = \$1472.00$$

10. Petitioner works 20-30 hours per week at Family Dollar, earning \$8.00 per hour. (Exhibit 8) Her monthly income from Family Dollar works out to be:

$$25 \text{ average hours per week} \times \$8.00 \text{ per hour} \times 4 \text{ weeks per month} = \$800.00$$

11. Petitioner works 16 hours per week at Sterling House earning \$9.25 per hours (Exhibits 7 and 9) Her regular monthly income from Sterling House works out to be:

$$16 \text{ hours per week} \times \$9.25 \text{ per hour} \times 4 \text{ weeks per month} = \$592.00$$

12. Petitioner's total household income at the time of her renewal was:

$$\$1472.00 + \$800.00 + \$592.00 = \$2864.00$$

DISCUSSION

Unless a member of a category of exempt individuals (i.e. pregnant women under age 19, continuously eligible newborns, etc.) the following individuals must pay a premium to become or remain eligible for BadgerCare+:

1. Children in families with income over 200% of the Federal Poverty Level (FPL)
2. Parents, stepparents and caretaker relatives with income over 133% through 200% of the FPL
3. Parents, stepparents and caretaker relatives with income over 133% in a BadgerCare+ extension and
4. Self-employed parents, stepparents and caretaker relatives with income above 200% of the FPL before subtracting the depreciation but below 200% of the FPL after subtracting the depreciation.

BadgerCare+ Eligibility Handbook (BEH) §19.1

If the (adult) individual fails to pay the premium, her BadgerCare+ case will close. She will not be allowed to re-enroll in BadgerCare+ for 12 months (this is called "Restrictive Re-enrollment"), unless the failure to pay was for good cause. Wis. Adm. Code § DHS 103.085(3)(b)1; *BEH § 19.8.1*

Good cause for not paying a premium includes the following:

1. Problems with the financial institution.
2. CARES problem.
3. Local agency problem.
4. Wage withholding problem.

5. Fair hearing decision.

BEH § 19.8.3

“If the family’s income drops to the point where the individuals in an RRP no longer owe BC+ premiums, they may again become eligible for BC+. If the income rises and the members again owe premiums, the individuals are still in the RRP and they are ineligible for BC+.” *BEH, § 19.11.2.*

It is undisputed that Petitioner did not pay the required premium owed for December 2012 benefits and that this resulted in her placement in Restrictive Re-enrollment per *BEH § 19.8.1*, until she verified a decrease in her income in January 2013.

In May 2013, Petitioner’s income was \$2864. 133% of FPL for a family of four is \$2610.13. *BEH, § 50.1* Consequently, Petitioner’s income went over the 133% FPL premium limit, which would normally require her to pay a premium to continue receiving benefits pursuant to *BEH § 19.1*. However, she was previously in Restrictive Re-enrollment when her case opened again in January 2013. Thus, per *BEH, § 19.11.2* the agency correctly terminated her BadgerCare+ benefits, effective July 1, 2013, when she was again over the premium income limit.

Petitioner expressed concerns about the fact that she and her husband have chronic health problems that require regular medical attention. Petitioner might wish to research the following websites for information about free and reduced fee clinics in Kenosha County:

http://freeclinicdirectory.org/wisconsin_care/kenosha_wi_county.html

<http://www.dhs.wisconsin.gov/forwardhealth/pdf/fqhc.pdf>

In addition, beginning October 1, 2013 Petitioner can apply for the Obamacare subsidy and go insurance shopping. The Obamacare portal info is: [REDACTED] or she can go on-line at www.healthcare.gov.

CONCLUSIONS OF LAW

The agency correctly terminated Petitioner’s BadgerCare+ benefits, effective July 1, 2013.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 26th day of September, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 26, 2013.

Kenosha County Human Service Department
Division of Health Care Access and Accountability